

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Killian D. Murphy
Assignee: ViaClix, Inc.
Title: DIGITAL IMAGE MAGNIFICATION FOR INTERNET
APPLIANCE
Serial No. 10/033,520 File Date: 10/18/2001
Examiner: Mylinh T. Tran Art Unit: 2179
Docket No.: CTV-006

September 25, 2006

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

This Appeal Brief, filed in triplicate, is in support of
the Notice of Appeal dated July 24, 2006.

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I. REAL PARTY IN INTEREST

The real party in interest is the assignee, VIACLIX, INC., pursuant to the Assignment recorded in the U.S. Patent and Trademark Office on October 18, 2001 on Reel 012427, Frame 0345.

II. RELATED APPEALS AND INTERFERENCES

Based on information and belief, there are no other appeals or interferences that could directly affect or be directly affected by or have a bearing on the decision by the Board of Patent Appeals in the pending appeal.

III. STATUS OF CLAIMS

Claims 1-21 are pending and stand rejected.

Claims 1-21 are appealed.

Claims 1-21 are listed in the Claims Appendix.

IV. STATUS OF AMENDMENTS

Appellant filed a Response to the Second Non-Final Office Action on December 30, 2005. The amendments entered in that Response were entered by the Examiner, as indicated by the Examiner in the Final Office Action dated March 24, 2006.

V. SUMMARY OF THE CLAIMED SUBJECT MATTER

This appeal involves independent Claims 1, 10, 14 and 18, and the subject matter of these claims finds exemplary support in the specification and drawings as follows:

<u>SUPPORT FOR Claim 1</u>		
<u>SUBJECT MATTER</u>	<u>SPECIFICATION</u>	<u>DRAWINGS</u>
1. A method of digital image magnification in a graphical user interface (GUI), the method comprising:	See description beginning in paragraph 16.	Figs. 3-6
identifying a selected region of a first image adjacent to a cursor in the GUI,	Paragraph 0017, selected region 315; also 515 (paragraph 0023); also 615 (paragraph 0033).	Figs. 3-6
wherein the selected region has a predetermined height and width that is independent of a position of the cursor in the GUI;	paragraphs 0028 and 0033; selected regions 315, 515, 615 are rectangular; Figs. 6A-6D show independence from cursor.	Figs. 3, 4, 5, 6(A)-6(D)
forming a magnified image including an enlarged version of the first image located in the selected region;	Paragraph 0016, magnified image 320; also 520 (paragraph 0022); also 620 (paragraph 0033).	Figs. 3-6
superimposing the magnified image over the first image such that the magnified image masks the selected region; and	Paragraphs 0017 and 0019	Figs. 3-6
superimposing the cursor over the magnified image to form a second image.	Paragraphs 0017 and 0019	Figs. 3-6

SUPPORT FOR Claim 10

<u>SUBJECT MATTER</u>	<u>SPECIFICATION</u>	<u>DRAWINGS</u>
10. A method of digital image magnification in a graphical user interface (GUI), the GUI including a first image and a cursor superimposed over the first image and movable on the first image by manipulation of an input device, the method comprising:	See description beginning in paragraph 16.	Figs. 3-6
determining Cartesian coordinate data identifying a first point on the first image located under the cursor;	Paragraph 0024	Fig. 5
forming a magnified image including an enlarged version of a selected region surrounding the identified first point;	Paragraph 0016, magnified image 320; also 520 (paragraph 0022); also 620 (paragraph 0033).	Figs. 3-6
superimposing the magnified image over the first image such that a second point on the magnified image screen corresponds to the first point on the first image;	Paragraphs 0017-0019, specifically paragraph 0018 (point 331) and paragraph 0019 (points 311,321)	Figs. 3 and 4
superimposing the cursor over the magnified image such that the cursor masks a portion of the magnified image, wherein the second point relative to the magnified image corresponds to the first point relative to the first image.	Paragraphs 0017 and 0019 Paragraph 0019 (points 311,321)	Figs. 3-6 Figs. 3 and 4

SUPPORT FOR Claim 14

<u>SUBJECT MATTER</u>	<u>SPECIFICATION</u>	<u>DRAWINGS</u>
14. A method of magnifying a background image in a graphical user interface (GUI), the GUI including image data for generating the background image on a display, and cursor position data for positioning a cursor over the background image, the method comprising:	See description beginning in paragraph 16.	Figs. 3-6
identifying a first selected point of the background image that coincides with the cursor position data;	Paragraph 0024	Fig. 5
forming a magnified image using the image data corresponding to a selected region located adjacent to the first selected point, wherein the magnified image includes a second selected point that coincides with the first selected point; and	Paragraph 0016, magnified image 320; also 520 (paragraph 0022); also 620 (paragraph 0033).	Figs. 3-6
superimposing the magnified image between the background image and the cursor such that the cursor is located directly over both the first selected point of the background image and the second selected point of the magnified image and such that the cursor masks a portion of the magnified image.	Paragraphs 0017-0019, specifically paragraph 0018 (point 331) and paragraph 0019 (points 311,321)	Figs. 3 and 4

SUPPORT FOR Claim 18

<u>SUBJECT MATTER</u>	<u>SPECIFICATION</u>	<u>DRAWINGS</u>
18. A system for magnifying an image, the system comprising:	See description beginning in paragraph 16.	Figs. 3-6
means for identifying a selected region of a first image adjacent to a cursor in the GUI;	Paragraph 0017, selected region 315; also 515 (paragraph 0023); also 615 (paragraph 0033).	Figs. 3-6
means for forming a magnified image including an enlarged version of the first image located in the selected region;	Paragraph 0016, magnified image 320; also 520 (paragraph 0022); also 620 (paragraph 0033).	Figs. 3-6
means for superimposing the magnified image over the first image such that the magnified image masks the selected region; and	Paragraphs 0017, magnified image 320 masks selected region 315; also 520/515 (paragraph 0022); also 620/615 (paragraph 0033).	Figs. 3-6
means for superimposing the cursor over the magnified image to form a second image such that the cursor masks a portion of the magnified image.	Paragraphs 0017, 0019;	Figs. 3-6

VI. GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

The following rejections are presented to the Board of Appeals for decision:

1) Claims 1-4, 11, 14-15 and 18-21 are rejected as unpatentable under 35 U.S.C. 103(a) over U.S. Patent No. 6,704,034 (hereinafter "Rodriguez"); and

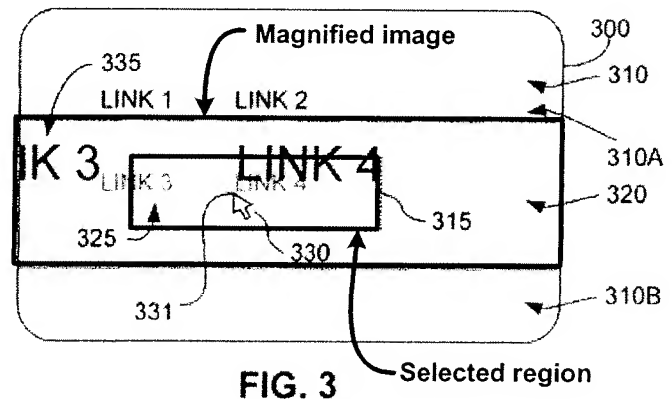
2) Whether Claims 5-10, 12-13 and 17 are rejected as unpatentable under 35 U.S.C. 103(a) over Rodriguez in view of U.S. Patent No. 6,407,747 (hereinafter "Chui").

VII. ARGUMENTS

1) Claims 1-4, 11, 14-15 and 18-21 are patentable under 35 U.S.C. 103(a) over Rodriguez

Claim 1 is distinguished over Rodriguez at least because Rodriguez fails to teach or suggest that Rodriguez's magnified region has "a predetermined height and width that is independent of a position of the cursor in the GUI", as recited in Claim 1.

Applicant's Figure 3 (shown below in a modified form) is a simplified screen display 300 depicting a method of digital image magnification in a graphical user interface (GUI). Shown on display 300 are an original (unmagnified) background image 310, a magnified image 320, and a cursor 330. Original background image 310 includes "normal" (i.e., unmagnified) text 325 (or other indicia or graphics), which in the present example includes the text "LINK 1", "LINK 2", "LINK 3", and "LINK 4". Magnified image 320 includes an enlarged version of a



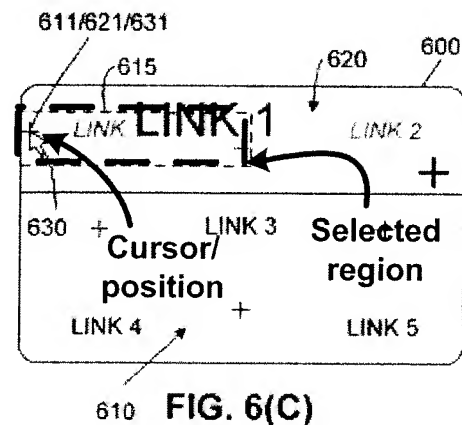
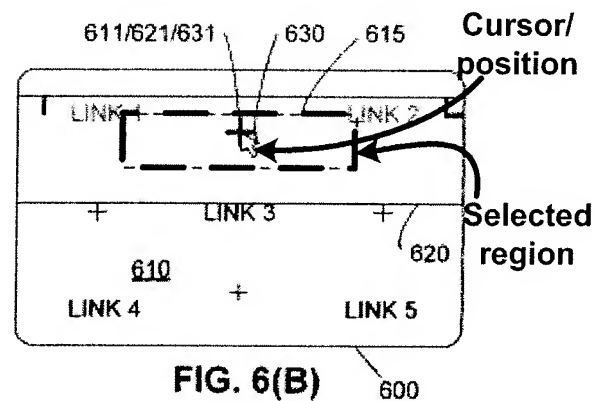
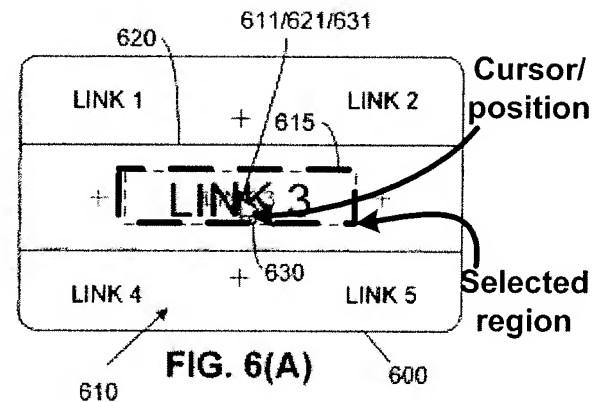
selected region 315, and includes (magnified) text 335 (i.e., a portion of text "LINK 3" and all of text "LINK 4") that are superimposed over original background image 310 (i.e., the normal sized text "LINK 3" and "LINK 4" are masked by magnified image 320, and are therefore indicated by shadow block type).

A key feature recited in Claim 1 that is distinguished over the cited prior art is that

"the selected region has a predetermined height and width that is independent of a position of the cursor in the GUI".

Applicant's Figures 6(A) through 6(D) (reproduced here in modified form) are simplified display screens showing that the "selected region" maintains a

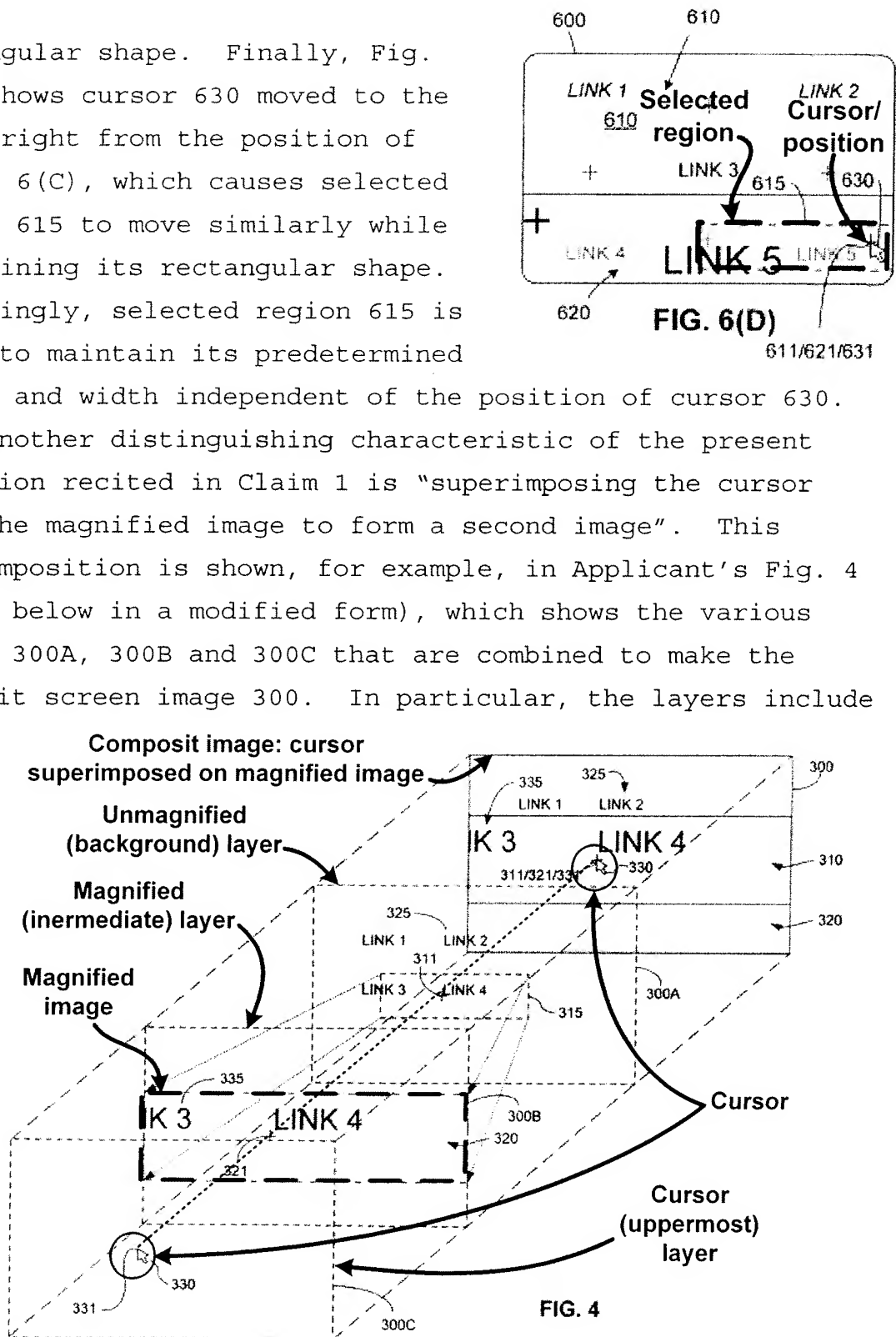
"predetermined height and width" (e.g., a fixed rectangular shape) that is independent of a position of the cursor. Figure 6(A) shows a cursor 630 and a selected region 615 located in the center of display 600. Figure 6(B) shows that when cursor 630 is moved up from the centered position, selected region 615 also moves up, but maintains its rectangular shape. Figure 6(C) shows that when cursor 630 is moved horizontally to the left from the position shown in Figure 6(B), selected region 615 moves left, but maintains its



rectangular shape. Finally, Fig. 6(D) shows cursor 630 moved to the lower right from the position of Figure 6(C), which causes selected region 615 to move similarly while maintaining its rectangular shape. Accordingly, selected region 615 is shown to maintain its predetermined

height and width independent of the position of cursor 630.

Another distinguishing characteristic of the present invention recited in Claim 1 is "superimposing the cursor over the magnified image to form a second image". This superimposition is shown, for example, in Applicant's Fig. 4 (shown below in a modified form), which shows the various layers 300A, 300B and 300C that are combined to make the composit screen image 300. In particular, the layers include



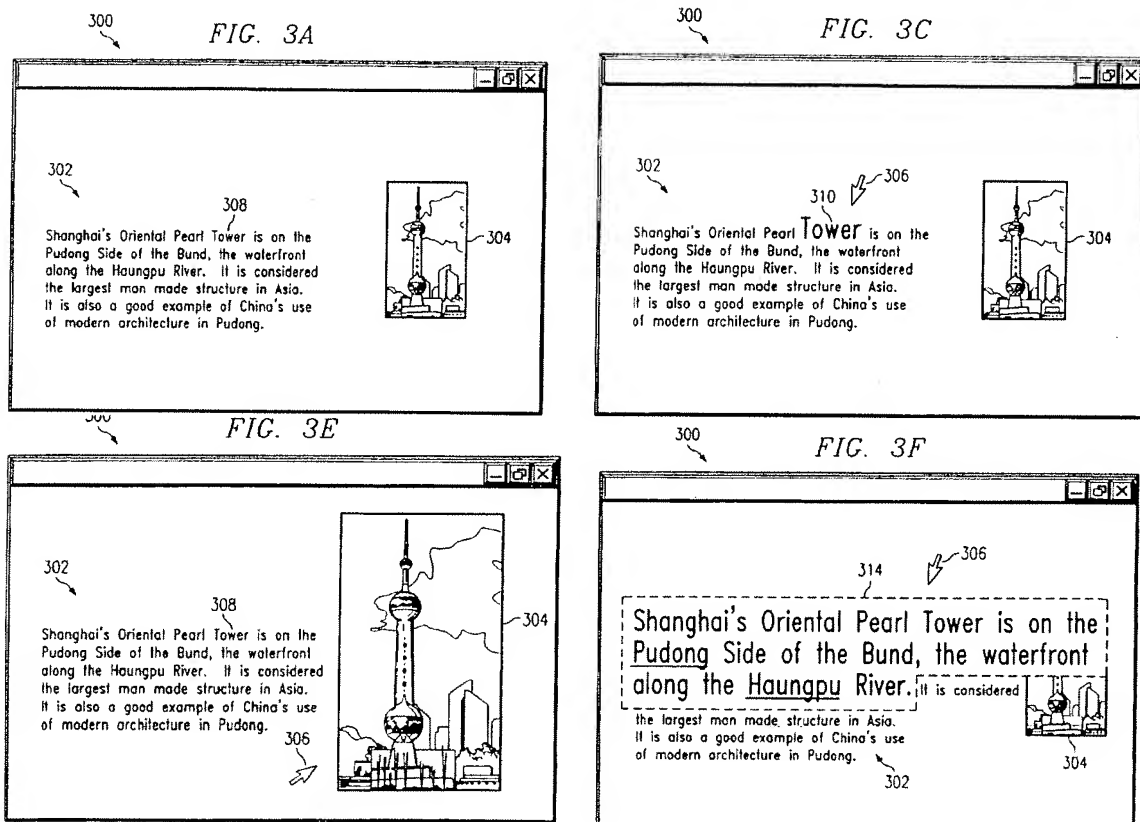
the original (unmagnified) background layer 300A, the magnified (intermediate) layer 300B, and the uppermost "cursor" layer 300C. Note that because the magnified image

is includes "an enlarged version of a selected region surrounding", as recited in Claim 1, the cursor is disposed on the magnified image in the composit image 300.

In contrast to limitations recited in Claim 1, the size of magnified regions displayed according to Rodriquez is determined by the object type identified by a pointer, and the cursor is clearly not superimposed over the magnified image (see Abstract, and Figs. 3A, 3C, 3E and 3F, which are copied below for reference):

(57) **ABSTRACT**

A method and apparatus in a data processing system for presenting a set of objects within the data processing system. Responsive to detecting movement of a pointer over an object within the set of objects, an object type is identified for the object. Presentation of the object is then magnified based on the object type.



Because Rodriquez's magnified region is determined by the object located adjacent to the pointer, and because

Rodriguez's figures clearly show that the size of the magnified region changes depending on the position of pointer 306, Rodriguez clearly fails to teach or suggest a "selected region having a predetermined height and width that is independent of a position of the cursor in the GUI", as recited in amended Claim 1. Further, it is not apparent how Rodriguez' cursor could be moved over the magnified region from Rodriguez's description. Therefore, Rodriguez clearly fails to teach or suggest "superimposing the cursor over the magnified image to form a second image", as recited in Claim 1.

Claims 2-4 are dependent from Claim 1, and are distinguished over Rodriguez for at least the reasons provided above with reference to Claim 1.

Claim 11

Applicant respectfully points out that the rejection directed to Claim 11 appears to be erroneous in that Claim 11 depends from Claim 10, which is subject to a different rejection (i.e., Rodriguez in view of Chiu). Thus, it is not understood how Claim 11 can be rejected over Rodriguez alone. As such, the rejection of Claim 11 will be addressed below following Applicant's response to the rejection of Claim 10.

Claims 14-15

Claim 14 recites (in pertinent part):

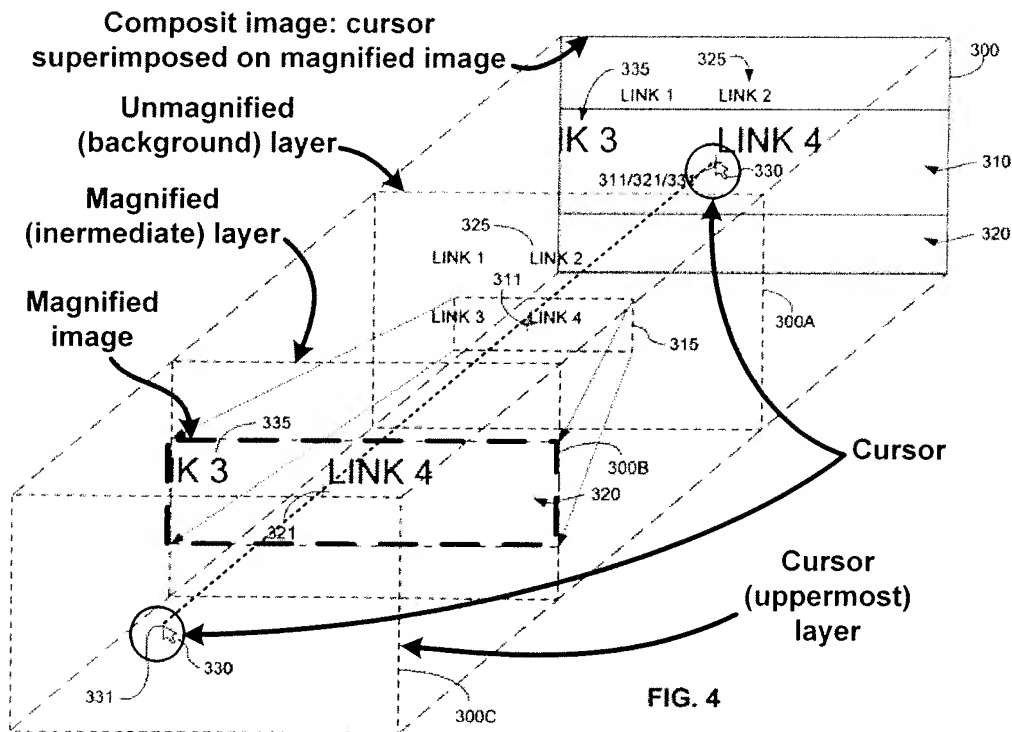
...superimposing the magnified image between the background image and the cursor such that the cursor is located directly over both the first selected point of the background image and the second selected point of the magnified image and such that the cursor masks a portion of the magnified image...

The above-quoted language sets forth another key aspect of the present invention, and a feature that makes digital image magnification devices of the present invention desirable, is the ability of a user to select a link in the magnified field by moving the cursor over the magnified link and selecting the link in a manner that is almost identical to non-magnified selection, thereby making the link selection process highly intuitive. The benefit of this recited feature is described in Applicant's paragraph 0020 (copied below in part for reference):

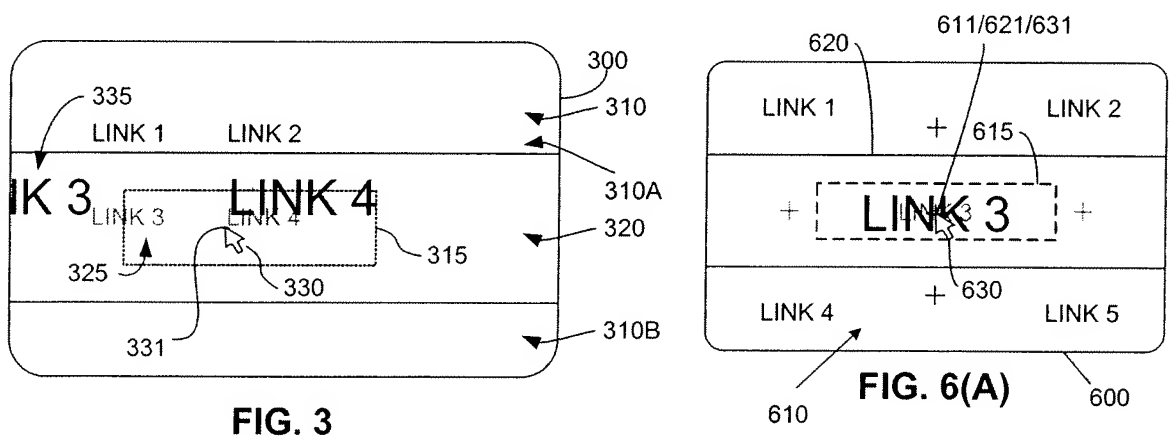
[0020] ...As described above, magnified region 320 is positioned on top of original background image 310 in such a way that the point of magnified region 320 appearing under the cursor at cursor position 331 corresponds to the point of original background image 310 at cursor position 331. Although the magnified region overlay surface is visible on the display, it is the interface elements within the original background image 310 that respond to mouse clicks. Thus, original background image 310 and cursor 330 operate as if magnified region 320 were not superimposed therebetween. Accordingly, the magnification tool of the present invention is easily incorporated into existing GUI's with minimal disruption in the operation of a host Internet appliance.

This feature may be better understood with reference to Fig. 4 (copied in the modified form below for reference), which clearly shows the position of the cursor (331,321, 311)

is in a fixed relation (indicated by dashed line), so that a magnified link can be selected without special software (i.e., using the established GUI interface).



Further examples of this features are found, for example, in Applicant's Figs. 3 and 6(A) (copied below for reference), which clearly shows that cursors 330/630 are superimposed over magnified regions 320/620 such that, for example, cursor 630 masks a portion of the magnified "LINK 3" in Fig. 6(A). The benefit of this feature is further



described, for example, in paragraph 0018 of Applicant's specification:

[0018] According to another aspect of the present invention, cursor position data, which is typically utilized by a GUI to position cursor 330 on display 300, is also used to determine the position and content of magnified image 320. Specifically, cursor 330 is positioned by a user via an input device (e.g., a mouse or trackball) to a desired cursor position 331. Cursor position data stored in the video memory of the Internet appliance indicates cursor position 331 at a given time. According to the present invention, the cursor position data indicating cursor position 331 is utilized to position according to the formulations provided below such that a point on magnified image 320 coincides with a point on original background image 310, which in turn coincides with cursor position 331. By modifying magnified image 320 such that the points coincide with cursor position 331, a user is able to utilize the magnification tool of the present invention to precisely position cursor 330 over selected regions of original background image 310 that they are enlarged (magnified) for easy identification. As a result, if selected region 315 includes interface elements such as hyperlinks, then those interface elements are visible to be selected (clicked upon) within magnified region 320. These features are explained further below.

Claim 14 is distinguished over Rodriguez at least because Rodriguez fails to teach or suggest that Rodriguez's pointer "masks a portion of the magnified image", as recited in Claim 14. For example, as shown in Rodriguez's Figs. 3A, 3C, 3E and 3F (copied above on page 9 of this paper), in each instance pointer 306 is located "over" (in a vertical sense) a magnified object, but does not appear superimposed on the magnified object such that the pointer "masks a portion of the magnified image", as

recited in Claim 14. Further, Rodriguez neither teaches nor suggests a benefit associated with superimposing pointer 306 over a magnified region for purposes of aiding selection of an interface element such as a hyperlink. Therefore, it would not have been obvious to modify Rodriguez to produce the method recited in amended Claim 14.

Claim 15 are dependent from Claim 14, and is distinguished over Rodriguez for at least the reasons provided above with reference to Claim 14.

Claims 18-21

Similar to Claim 1, Claim 18 recites (in pertinent part):

...means for superimposing the cursor over the magnified image to form a second image such that the cursor masks a portion of the magnified image...

Claim 18 is believed to be patentable over Rodriguez for reasons similar to those provided above with reference to Claim 1.

Claims 19-21 are dependent from Claim 18, and are distinguished over Rodriguez for at least the reasons provided above with reference to Claim 18.

2) Claims 5-10, 12-13 and 17 are patentable under 35 U.S.C. 103(a) over Rodriguez in view of Chiu

Claims 5-9

Rodriguez is discussed above.

Chiu teaches an image magnifying method and apparatus magnifies a portion of an image displayed on a computer display device. The user of the computer selects a first region (called a magnification window) of the displayed image, for instance using a mouse or trackball pointer device. As indicated in Chiu's Fig. 2 (copied below with text from Chiu's column 4, lines 33-43), Chiu fails to teach or suggest "superimposing the cursor over the magnified image to form a second image". In fact, Chiu appears not to teach displaying a cursor at any time that a magnified image is shown because the cursor and magnified region appear to be one and the same:

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Screen Image Magnification

Referring to FIGS. 3, 4 and 5, the display 107 is shown with a portion of the screen image magnified. There are many reasons that a user might want to magnify a portion of a screen image. The present invention provides a "magnifying glass" procedure 142 (FIG. 2) that enables the user to move a virtual magnifying glass over any portion of the image currently on the display 107. The procedure generates a magnified image within a magnification window 152 (FIG. 2) whose position is determined by the screen cursor position.

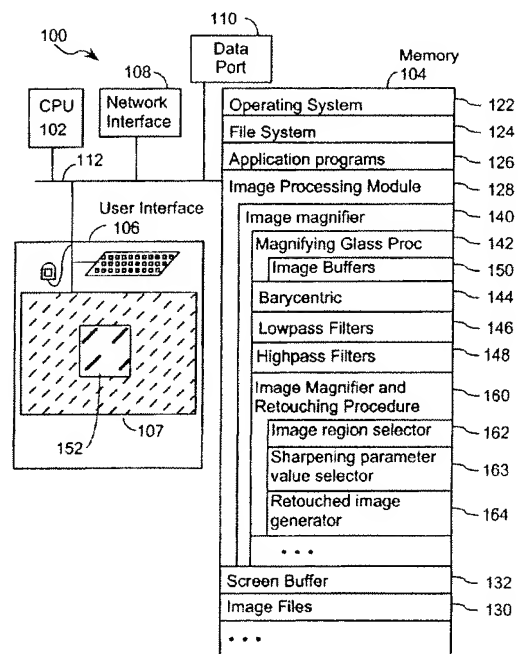


FIG. 2

Claims 5-9 are dependent from Claim 1. It would not have been possible to combine the teachings of Rodriguez and Chiu to produce the subject matter of Claim 1 because

neither Rodriguez nor Chiu teach or suggest "superimposing the cursor over the magnified image to form a second image", as recited in Claim 1. As such, Claims 5-9 are also distinguished over Rodriguez and Chiu for at least these reasons.

Further, it would not have been obvious to combine the teachings of Rodriguez with Chui to produce the method of Claim 1 because the image portion magnified by Chui's approach does not appear to be object-based, as required by Rodriguez.

Claims 10, 12 and 13

Similar to Claim 14, Claim 10 recites (in pertinent part):

...determining Cartesian coordinate data
identifying a first point on the first image
located under the cursor;
...superimposing the magnified image
over the first image such that a second point
on the magnified image screen corresponds to
the first point on the first image; and
superimposing the cursor over the
magnified image such that the cursor masks a
portion of the magnified image,
wherein the second point relative to
the magnified image corresponds to the
first point relative to the first image.

Claim 10 is believed to be patentable over Rodriguez for reasons similar to those provided above with reference to Claim 14. Further, Chui, which is cited for showing "determining Cartesian coordinates data", fails to overcome the deficiencies of Rodriguez that are mentioned above with reference to Claim 14. That is, it would have been neither possible nor obvious to combine the teachings of Rodriguez and Chui to produce the method recited in Claim 10 because neither references teaches or suggests "superimposing the

cursor over the magnified image such that the cursor masks a portion of the magnified image" and "superimposing the magnified image over the first image such that a second point on the magnified image screen corresponds to the first point on the first image...wherein the second point relative to the magnified image corresponds to the first point relative to the first image", as recited in Claim 10.

Claims 11, 12 and 13 are dependent from Claim 10, and are distinguished over Rodriguez for at least the reasons provided above with reference to Claim 10.

Claims 16 and 17

Claims 16 and 17 are dependent from Claim 14, and are distinguished over Rodriguez for at least the reasons provided above with reference to Claim 14. Further, Chui fails to overcome the deficiencies of Rodriguez that are mentioned above. Therefore, it would have been neither possible nor obvious to combine the teachings of Rodriguez and Chui to produce the method recited in Claims 16 and 17.

For the foregoing reasons, it is submitted that the Examiner's rejections of Claims 1-21 are erroneous, and reversal of these rejections is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Patrick T. Bever". The signature is stylized with a large, looped "P" and a distinct "B".

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VII. CLAIMS APPENDIX

1. (previously presented) A method of digital image magnification in a graphical user interface (GUI), the method comprising:

identifying a selected region of a first image adjacent to a cursor in the GUI, wherein the selected region has a predetermined height and width that is independent of a position of the cursor in the GUI;

forming a magnified image including an enlarged version of the first image located in the selected region;

superimposing the magnified image over the first image such that the magnified image masks the selected region; and

superimposing the cursor over the magnified image to form a second image.

2. (previously presented) The method according to Claim 1, wherein the magnified image has a width equal to a width of the GUI, thereby enhancing the readability of text in the first image.

3. (original) The method according to Claim 1, wherein a location identified by the cursor relative to the magnified image is co-located with a location identified by the cursor relative to the first image.

4. (original) The method according to Claim 3, wherein a user visually interacting with a magnified interface element at the location identified by the cursor relative to the magnified image actually interacts with an interface element at the location identified by the cursor relative to the first image.

5. (original) The method according to Claim 1, wherein identifying the selected region comprises:

determining Cartesian coordinate data identifying a location of the cursor; and

calculating upper and left boundaries of the selected region based on the Cartesian coordinate data.

6. (previously presented) The method according to Claim 5, wherein calculating the left boundary comprises:

multiplying a distance from the cursor to a left boundary of the magnified image by the width of the selected region to form a first factor;

dividing the first factor by a width of the magnified image to form a second factor; and

subtracting the second factor from an X Cartesian coordinate of the cursor.

7. (previously presented) The method according to Claim 5, wherein calculating the upper boundary comprises:

multiplying a distance from the cursor to an upper boundary of the magnified image by the height of the selected region to form a third factor;

dividing the third factor by a height of the magnified image to form a fourth factor; and

subtracting the fourth factor from a Y Cartesian coordinate of the cursor.

8. (original) The method of Claim 1, wherein the second image is displayed within a television safe area on a display screen.

9. (original) The method of Claim 1, further comprising alpha blending the first image with the magnified image, such that the first image shows through the magnified image.

10. (previously presented) A method of digital image magnification in a graphical user interface (GUI), the GUI including a first image and a cursor superimposed over the first image and movable on the first image by manipulation of an input device, the method comprising:

determining Cartesian coordinate data identifying a first point on the first image located under the cursor;

forming a magnified image including an enlarged version of a selected region surrounding the identified first point;

superimposing the magnified image over the first image such that a second point on the magnified image screen corresponds to the first point on the first image; and

superimposing the cursor over the magnified image such that the cursor masks a portion of the magnified image,

wherein the second point relative to the magnified image corresponds to the first point relative to the first image.

11. (original) The method of Claim 10, wherein the magnified image is superimposed over the first image such that a first edge of the magnified image extends to a first edge of the first image and a second edge of the magnified image extends to a second edge of the first image.

12. (original) The method of Claim 10, wherein the magnified image, first image, and the cursor are displayed within a television safe area on a display screen.

13. (original) The method according to Claim 10, wherein a user visually interacting with a magnified interface element at the second point actually interacts with an interface element at first point.

14. (previously presented) A method of magnifying a background image in a graphical user interface (GUI), the GUI including image data for generating the background image on a display, and cursor position data for positioning a cursor over the background image, the method comprising:

identifying a first selected point of the background image that coincides with the cursor position data;

forming a magnified image using the image data corresponding to a selected region located adjacent to the first selected point, wherein the magnified image includes a second selected point that coincides with the first selected point; and

superimposing the magnified image between the background image and the cursor such that the cursor is located directly over both the first selected point of the background image and the second selected point of the magnified image and such that the cursor masks a portion of the magnified image.

15. (original) The method of Claim 14, wherein the magnified image is superimposed between the background image and the cursor such that a first edge of the magnified image extends to a first edge of the background image and a second edge of the magnified image extends to a second edge of the background image.

16. (original) The method of Claim 14, wherein the magnified image, background image, and the cursor are displayed within a television safe area on a display screen.

17. (original) The method according to Claim 14, wherein a user visually interacting with a magnified interface element at the second selected point actually interacts with an interface element at first selected point.

18. (previously presented) A system for magnifying an image, the system comprising:

means for identifying a selected region of a first image adjacent to a cursor in the GUI;

means for forming a magnified image including an enlarged version of the first image located in the selected region;

means for superimposing the magnified image over the first image such that the magnified image masks the selected region; and

means for superimposing the cursor over the magnified image to form a second image such that the cursor masks a portion of the magnified image.

19. (previously presented) The system according to Claim 18, wherein the magnified image has a width equal to a width of the first image, thereby enhancing the readability of text in the first image.

20. (original) The system according to Claim 18, wherein a location identified by the cursor relative to the magnified image is co-located with a location identified by the cursor relative to the first image.

21. (original) The system according to Claim 18, wherein a user visually interacting with a magnified interface element at the location identified by the cursor

relative to the magnified image actually interacts with an interface element at the location identified by the cursor relative to the first image.

IX. EVIDENCE APPENDIX

Not used.

X. RELATED PROCEEDINGS APPENDIX

Not used.